

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CASE NO. 21-54552-BEM
	:	
DAVID ESCOBEDO HIDALGO,	:	CHAPTER 7
	:	
Debtor.	:	
	:	

**NOTICE OF MOTION FOR ORDER AUTHORIZING SETTLEMENT UNDER RULE 9019
OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE; DEADLINE TO
OBJECT; AND FOR HEARING**

PLEASE TAKE NOTICE that on December 28, 2022, S. Gregory Hays, as Chapter 7 Trustee (“**Trustee**”) for the bankruptcy estate (the “**Bankruptcy Estate**”) of David Escobedo Hidalgo (“**Debtor**”), filed a *Motion for Order Authorizing Settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure* [Doc. No. 40] (the “**Motion**”) and related papers with the Court, seeking an order, among other things, approving a settlement agreement (the “**Settlement Agreement**”) between Trustee; Freedom Mortgage Corporation (“**Freedom**”); and Caliber Home Loans, Inc. (“**Caliber**” and with Trustee and Freedom, the “**Parties**”) related to the Debtor’s former interest¹ in certain improved real property with a common address of 114 Truman Court, Jackson, Georgia 30233-5044 (the “**Property**”) and the alleged security interest of Freedom in the same. More specifically, under the terms of the Settlement Agreement, *inter alia*,² within 10 days

¹ In October of 2022, Trustee sold the Property and netted the Bankruptcy Estate approximately \$193,000.00 from the sale (the “**Net Sale Proceeds**”). See [Doc. No. 36].

² The following is a summary of the Settlement Agreement and is not intended to be comprehensive. To the extent that anything in this summary is contrary to the terms of the Settlement Agreement, the Settlement Agreement controls.

of the Settlement Approval Order³ becoming a final order, Trustee shall pay to Freedom \$125,047.00 from the Net Sale Proceeds (the “**Trustee Settlement Funds**”) in one lump sum payment by delivering a check to Freedom in the amount of \$125,047.00. Moreover, within 10 days of the Settlement Approval Order becoming final, Freedom shall pay to Trustee \$17,500.00 (the “**Freedom Settlement Funds**”) in one lump sum payment by delivering a check to Trustee in the amount of \$17,500.00. In addition, the Parties stipulate and agree that Freedom and Caliber shall not have a claim as an unsecured creditor in the Bankruptcy Case against the Bankruptcy Estate for any reason, and that neither Freedom or Caliber, nor any of their affiliates, agents, principals, or subsidiaries shall receive a distribution from the Bankruptcy Estate as an unsecured creditor. In addition, within ten (10) business days of the later of: (a) the Settlement Approval Order becoming a final order, (b) Trustee’s paying the Trustee Settlement Funds to Freedom, or (c) Freedom’s paying the Freedom Settlement Funds to Trustee; Trustee, Freedom, and Caliber shall file a stipulation dismissing with prejudice the Adversary Proceeding styled as *Hays v. Caliber Home Loans, Inc., et al.* (Adv. Pro. No. 21-5098-BEM). Finally, the Parties grant broad and general releases to one another. The exact terms of the Settlement Agreement are set forth on Exhibit “A” to the Motion.

Following payment of the Trustee Settlement Funds by Trustee and receipt of the Freedom Settlement Funds, the Bankruptcy Estate will include approximately \$85,000.00 to pay all remaining administrative, priority, and non-priority general unsecured claims against the Bankruptcy Estate.

³ Capitalized terms not defined in this Notice shall have the meanings ascribed to them in the Motion.

Pursuant to the Second Amended and Restated General Order No. 24-2018, the Court may consider this matter without further notice or a hearing if no party in interest files a response or objection within twenty-one (21) days from the date of service of this notice. **If you object to the relief requested in the Motion, you must timely file your objection with the Bankruptcy Clerk** at: Bankruptcy Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303, and serve a copy on the Trustee's attorney, Michael J. Bargar, Rountree Leitman Klein & Geer LLC, Century Plaza I, 2987 Clairmont Road, Suite 350, Atlanta, Georgia 30329, and any other appropriate persons by the objection deadline. The response or objection must explain your position and be actually received by the Bankruptcy Clerk within the required time.

A hearing on the Motion has been scheduled for **January 24, 2023**. The Court will hold an initial telephonic hearing for announcements on the Motion at the following number: 833-568-8864 US Toll-free Meeting ID: 160 862 0914 at **10:00 a.m.** in **Courtroom 1402**, United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia.

Matters that need to be heard further by the Court may be heard by telephone, by video conference, or in person, either on the date set forth above or on some other day, all as determined by the Court in connection with this initial telephonic hearing. Please review the "Hearing Information" tab on the judge's webpage, which can be found under the "Dial-in and Virtual Bankruptcy Hearing Information" link at the top of the webpage for this Court, www.ganb.uscourts.gov for more information.

If an objection or response is timely filed and served, the hearing will proceed as scheduled. **If you do not file a response or objection within the time permitted, the Court may grant the relief requested without further notice or hearing** provided that an order approving the relief requested is entered at least one business day prior to the scheduled hearing. If no objection is timely

filed, but no order is entered granting the relief requested at least one business day prior to the hearing, the hearing will be held at the time and place as scheduled.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

Dated: December 28, 2022.

ROUNTREE LEITMAN KLEIN & GEER, LLC
Attorneys for Trustee

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